IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.633 OF 2004

Bhogwati ssk limited., Kolhapur .. Appellant.
V/s.
Dy. CIT., SR-1, Kolhapur .. Respondent.

Mr.Pramod Vaidya for the appellant.
Mr.A.S. Rao for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 2ND MAY, 2005.

P.C. :

1. Heard rival parties. Following two questions are raised in this appeal :

> 1. Whether on the facts and in the circumstances of the case and in law the appellate Tribunal was justified in sustaining the additions by treating the amounts of non refundable deposits which were converted in to the share capital or repaid, as income of appellant ?
>
> 2. Whether on the facts and in the circumstances of the case, the appellate tribunal was justified in disallowing interest actually paid by the appellant on the above deposits and treating the same as income of the appellant ?

2. So far as question No.1 above is concerned, the same is answered by the Apex Court in the case of Siddheshwar SSK Ltd., V/s. C.I.T. & Others [(2004) 270 ITR 1 (SC)] in favour of the assessee and against the revenue. Accordingly, the above question is answered in terms of that judgment.

3. So far as question No.2 above is concerned, it relates to the interest on non-refundable deposits. In the light of Apex Court judgment in the case of Siddheshwar SSK Ltd. (supra), the Tribunal shall consider the same afresh.

4. In this view of the matter, the impugned order passed by the Tribunal to the above extent is set aside and the appeal is remanded back to the Tribunal for consideration afresh in the light of the judgment of the Apex Court in the case of Siddheshwar SSK Ltd. (supra).

5. The Income Tax appeal stands disposed of.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)